Clearing of Trees and Brush at a Recreation Site

Complaint Investigation 040583

FPB/IRC/104

April 2005

106-04936/

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The Investigation

Background

In July 2004, a Lower Mainland resident (the complainant) was camped at the South Chehalis Lake recreation site, along the edge of Chehalis Lake in the upper Fraser Valley. She had camped here before and enjoyed the wilderness feeling of the site. This time she noticed that trees had been felled within the recreation site. There were no signs to explain what operations were underway in the area. On the final morning of her trip, a number of people arrived with brush cutting equipment. They explained that they were volunteers from a local club and were authorized to make the site more accessible to recreational vehicles. The volunteers removed brush and cut up the fallen trees in several areas within the recreational site and along the road through the site.

The complainant was concerned about whether the work was indeed authorized and about the impact it was having on the pristine nature of the forest within the recreation site. She was also concerned about some endangered plants that she had seen growing in the area on previous visits. Shortly after returning home, she contacted the Chilliwack district office of the Ministry of Forests (MOF), to express her concerns. Not being satisfied with the response from MOF, she filed a complaint with the Forest Practices Board (the Board).

The activity at the recreation site is regulated by the *Forest and Range Practices Act*, which came into effect in 2004. The Board investigated the following issues:

1. Was the work at the recreation site authorized?
2. Was there a contravention of environmental requirements under the *Forest and Range Practices Act*?

Discussion

Authority for the work

The complainant's initial concern was whether the work being done at the recreation site was, in fact, authorized by government, as the volunteers had no visible identification and there were no signs posted explaining the work.

The Board found that the Chilliwack Forest District had authorized the work by the volunteers. MOF explained that the development work at the recreation site was primarily a maintenance project. The district has an ongoing maintenance program to ensure access to facilities and maintain safe conditions around recreation sites. Much of this work requires the falling of potentially hazardous trees. Encroachment of brush into campsites can create a

fire hazard and this remote area is not regularly patrolled by MOF staff. Because of limited MOF resources, users maintain the South Chehalis recreation site themselves. Users are expected to maintain and keep the site clean, but otherwise the site is left in a wild state.

No maintenance work had been done at the South Chehalis recreation site for approximately eight years prior to the complaint and MOF staff considered the site and the roadway through it to be overgrown. MOF staff conducted a danger tree assessment on June 18, 2004, and a contractor was then hired to fell trees identified to be hazardous. The district had also decided to increase the number of camping sites within the recreational site; that required falling additional trees. Under section 52 of the *Forest Act* the district manager may authorize MOF employees or agents to harvest timber on Crown land. Section 51(1) of the *Forest Planning and Practices Regulation* permits the removal of trees within a riparian reserve zone for the purposes of "...establishing or maintaining an interpretative forest site, recreation site, recreation facility or recreational trail."

To assist with maintaining the site, the forest district entered into a volunteer agreement with a local club. The club was to be a guardian for the site and that included clearing brush to prevent recurrence of the hazardous conditions. The volunteers were authorized by the district to cut up the trees that had already been felled by the contractor.

The maintenance work at the recreation site was authorized by the Ministry of Forests.

Environmental impacts

The complainant was concerned about impacts on trillium, a plant that she had seen growing on previous trips to the recreation site. She believed that trillium was an endangered plant species that was protected by legislation. Trillium were protected under the former *Dogwood, Rhododendron and Trillium Protection Act*, but the Act was repealed in April 2002. Trillium are not considered a threatened or endangered plant[i], and are not protected by other legislation.

The complainant was also concerned about the impact that the falling and brushing was having on the environment at the recreation site, both aesthetically and because the site is located on a lakeshore and is within a riparian area. However, as mentioned, section 51(1) of the *Forest Planning and Practices Regulation* permits these activities in order to maintain a recreation site.

Protection of the environment is more broadly addressed under section 46 of the *Forest and Range Practices Act*. It states: "A person must not carry out a forest practice, a range practice or any other activity that results in damage to the environment, unless ... the person is acting in accordance with a plan, authorization or permit under this Act." However, the term 'damage to the environment' is restrictively defined in section 3 of the *Forest Planning and Practices Regulation* to mean the following:

(a) a landslide;
(b) a gully process on the Coast;
(c) a fan destabilization on the Coast;
(d) soil disturbance;
(e) the deposit into a stream, wetland or lake of a petroleum product, a fluid used to service industrial equipment, or any other similar harmful substance; or
(f) a debris torrent that enters a fish stream.

In addition, there were no visual objectives established for the area so any visual disturbance perceived by the complainant did not contravene legislation.

Board staff inspected the recreational site and observed where trees had been felled and bucked and brush cleared. Many felled trees remained on the ground waiting to be cut up. In addition, equipment was clearing new camping sites within the recreational site. While many trees had been felled and the forest canopy had been opened up in many areas, there were no signs of environmental damage and no observed failure to comply with the *Forest and Range Practices Act*. Given MOF objectives to increase the number of camping sites and to remove hazardous trees and encroaching brush, and considering the nature of falling and brush-clearing activity, the Board finds that the work was appropriate and had been done in a manner that minimized the impact on surrounding trees and vegetation.

The maintenance activity at the recreation site complied with the environmental protection requirements of the *Forest and Range Practices Act* and was appropriate given the objectives at the site.

Conclusions

1. The maintenance work at the recreation site was authorized by the Ministry of Forests.

2. The maintenance work at the recreation site complied with the environmental protection requirements of the *Forest and Range Practices Act* and was appropriate.

Commentary

Some of the complainant's concerns were based on inadequate information about changes to the recreation site: the volunteers lacked identification and there were no signs indicating what was happening to the site. There is no legal requirement for the ministry to post signs, but district staff agreed that it would have been preferable to do so. They had been preparing a sign but it had not been posted at the time of the incident. Since the complaint was filed, MOF has posted a sign at the recreation site explaining the maintenance work being done. Ministry staff also agree with the need for identification of volunteers, and have

developed identification tags that enable the public to recognize authorized volunteer workers when maintenance is done at recreation sites.

The complainant acknowledged that the posting of the sign at the recreational site and the issuing of identification to volunteer workers addresses part of her concerns. However, she still feels that there was too much clearing of brush and trees on the site.

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[1] One variety, dwarf trillium, found on the west coast of Vancouver Island is on the provincial red list.